

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

1. The petitioner lives with his wife and three children. The youngest child was born in December, 1999.
2. The petitioner's wife receives child support of \$100 a week.
3. In October, 1999, the petitioner's wife began receiving unemployment compensation benefits of \$248 a week. She elects to have state and federal taxes withheld from that amount, so her net benefit is \$202 a week.
4. The petitioner applied for ANFC for November, 1999. The Department denied the application based on the amount of the

petitioner's wife's gross unearned income, without deducting the amount of taxes withheld from her unemployment checks.

5. Based on the same information, the Department reduced the amount of the family's Food Stamps effective December 1, 1999, from \$419 to \$18 a month.

ORDER

The Department's decision is affirmed.

REASONS

For ANFC the regulations provide that: "(t)he full amount of available unearned income shall be applied to the payment standard, except for disregards specified under certain Federal programs, See Exempt Income." W.A.M. § 2252. Federal and state taxes voluntarily deducted from state unemployment compensation benefits are not included as a deduction from unearned income.<sup>1</sup>

The petitioner's monthly unearned family income from child support and unemployment compensation is over \$1400. For ANFC eligibility the maximum amount of countable income for a family of four is \$753.37 a month. W.A.M. §§ 2245.2 et seq.<sup>2</sup> Even if a

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<sup>1</sup> There is no dispute that the petitioner's wife could elect to receive her full unemployment benefit with no deductions for taxes.

<sup>2</sup> The payment standard increases about \$90 a month for each additional number in the household.

deduction was allowed for the taxes withheld from the unemployment check, the family's income would be well in excess of this amount.

The same treatment of unearned income applies to the Food Stamp program. The full amount of unearned income is considered with no deductions for taxes voluntarily withheld from unemployment compensation. Food Stamp Manual § 273.9(b)(2). Based on the notices provided by the Department it appears that the Department correctly calculated the petitioner's Food Stamps based on the family's income.<sup>3</sup>

Inasmuch as the Department's decisions are in accord with the pertinent facts and regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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<sup>3</sup> It is assumed that the Department has, or will, increase the amount of the family's Food Stamps as of January, 2000, based on the addition of another child in the household.